



## DEPARTMENT OF COMMERCE

### United States Patent and Trademark Office

#### Substantive Submissions Made During Prosecution of the Trademark Application

**ACTION:** Revision of an existing collection; comment request.

**SUMMARY:** The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on a a proposed extension of an existing information collection.

**DATES:** Written comments must be submitted on or before [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]

**ADDRESSES:** You may submit comments by any of the following methods:

- *Email:* [InformationCollection@uspto.gov](mailto:InformationCollection@uspto.gov). Include “0651–0054 comment” in the subject line of the message.
- *Federal Rulemaking Portal:* <http://www.regulations.gov>.
- *Mail:* Marcie Lovett, Records and Information Governance Division Director, Office of the Chief Technology Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Catherine Cain, Attorney Advisor, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272-8946; or by email to Catherine.Cain@uspto.gov with “0651–0054 comment” in the subject line. Additional information about this collection is also available at <http://www.reginfo.gov> under “Information Collection Review.”

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

The United States Patent and Trademark Office (USPTO) administers the Trademark Act, 15 U.S.C. 1051 et seq., which provides for the Federal registration of trademarks, service marks, collective trademarks and service marks, collective membership marks, and certification marks. Individuals and businesses that use or intend to use such marks in commerce may file an application to register their mark with the USPTO.

Such individuals and businesses may also submit various communications to the USPTO, including providing additional information needed to process a request to delete a particular filing basis from an application or to divide an application identifying multiple goods and/or services into two or more separate applications. Applicants may seek a six-month extension of time to file a statement that the mark is in use in commerce or submit a petition to revive an application that abandoned for failure to submit a timely response to an office action or a timely statement of use or extension

request. In some circumstances, an applicant may expressly abandon an application by filing a written request for withdrawal of the application.

The rules implementing the Act are set forth in 37 CFR Part 2. These rules mandate that each register entry include the mark, the goods and/or services in connection with which the mark is used, ownership information, dates of use, and certain other information. The USPTO also provides similar information concerning pending applications. The register and pending application information may be accessed by an individual or by businesses to determine the availability of a mark. By accessing the USPTO's information, parties may reduce the possibility of initiating use of a mark previously adopted by another. The Federal trademark registration process may thereby reduce the number of filings between both litigating parties and the courts.

## **II. Method of Collection**

The forms in this collection are available in electronic format through the Trademark Electronic Application System (TEAS), which may be accessed on the USPTO Web site. TEAS Global Forms are available for the items where a TEAS form with dedicated data fields is not yet available. Applicants may also submit the information in paper form by mail, fax, or hand delivery.

## **III. Data**

*OMB Number:* 0651–0054.

*IC Instruments and Forms:* PTO Forms 1553, 1581, 2194, 2195, 2200, and 2202.

*Type of Review:* Revision of a Previously Existing Information Collection

*Affected Public:* Businesses or other for-profits; not-for-profit institutions; individuals.

*Estimated Number of Respondents:* 374,972 per year.

*Estimated Time per Response:* The USPTO estimates that the response time for activities related to submissions regarding trademark prosecution will take the public from 10 minutes (0.17 hours) to 35 minutes (0.58 hours) to complete. (See Table 1.) This includes the time to gather the necessary information, prepare the appropriate documents, and submit the information to the USPTO.

*Estimated Total Annual Respondent Burden Hours:* 101,400.37 hours.

*Estimated Total Annual Respondent (Hourly) Cost Burden:* \$41,574,150.33. The professional hourly rate for attorneys is \$410. This rate is established by estimates in the 2015 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association. Using this hourly rate, the USPTO estimates that the respondent cost burden for this collection will be approximately \$41,574,150.33 per year.

#	Item	Estimated Time for Response (Minutes) (a)	Estimated Annual Responses (b)	Estimated Annual Burden Hours (a) x (b) / 60 = (c)	Rate (\$/hr)
1	Trademark/Service Mark Allegation of Use (Statement of Use/Amendment to Allege Use) (Paper)	30	27	13.50	\$410.00
1	Trademark/Service Mark Allegation of Use (Statement of Use/Amendment to Allege Use) (TEAS)	25	109,086	45,452.50	\$410.00
2	Request for Extension of Time to File a Statement of Use (Paper)	15	59	14.75	\$410.00
2	Request for Extension of Time to File a Statement of Use (TEAS)	12	234,906	46,981.20	\$410.00

3	Petition to Revive Abandoned Application – Failure to Respond Timely to Office Action (Paper)	25	5	2.08	\$410.00
3	Petition to Revive Abandoned Application – Failure to Respond Timely to Office Action (TEAS)	20	19,545	6,515.00	\$410.00
4	Petition to Revive Abandoned Application - Failure to File Timely Statement of Use or Extension Request (Paper)	20	1	0.33	\$410.00
4	Petition to Revive Abandoned Application - Failure to File Timely Statement of Use or Extension Request (TEAS)	15	284	71.00	\$410.00
5	Request to Delete Section 1(b) Basis, Intent to Use (Paper)	15	1	0.25	\$410.00
5	Request to Delete Section 1(b) Basis, Intent to Use (TEAS)	10	1,400	233.33	\$410.00
6	Request for Express Abandonment (Withdrawal) of Application (Paper)	15	1	0.25	\$410.00
6	Request for Express Abandonment (Withdrawal) of Application (TEAS)	10	5,500	916.67	\$410.00
7	Request to Divide Application (Paper)	20	1	0.33	\$410.00
7	Request to Divide Application (TEAS)	15	3,057	764.25	\$410.00
8	Response to Intent-to-Use (ITU) Divisional Unit Office Action (Paper)	35	1	0.58	\$410.00
8	Response to Intent-to-Use (ITU) Divisional Unit Office Action (TEAS Global)	30	2	1.00	\$410.00
9	Response to Petition to Revive Deficiency Letter (Paper)	25	1	0.42	\$410.00
9	Response to Petition to Revive Deficiency Letter (TEAS Global)	20	313	104.33	\$410.00
10	Petition to the Director Under Trademark Rule 2.146 (Paper)	30	1	0.50	\$410.00
10	Petition to the Director Under Trademark Rule 2.146 (TEAS Global)	25	750	312.50	\$410.00
11	Petition to Revive with Request to Delete Section 1(b) Basis or to Delete ITU Goods/Services After NOA (Paper)	35	1	0.58	\$410.00
11	Petition to Revive with Request to Delete Section 1(b) Basis or to Delete ITU Goods/Services After NOA (TEAS Global)	30	30	15.00	\$410.00
	<b>Totals</b>	---	<b>374,972</b>	<b>101,400.37</b>	---

*Estimated Total Annual (Non-hour) Respondent Cost Burden: \$42,650,873.51.*

There are no capital start-up, maintenance, or recordkeeping costs associated with this information collection. However, this collection does have annual (non-hour) cost burden in the form of postage costs and filing fees.

Applicants incur postage costs when submitting information to the USPTO by mail through the United States Postal Service. The USPTO estimates that the majority of the paper forms are submitted to the USPTO via first-class mail at a rate of 49 cents per ounce. Therefore, the USPTO estimates that with a total of 99 paper submissions, the postage costs in this collection will be \$48.51.

The filing fees for several items in this collection are charged per class of goods and/or services; therefore, the filing fees will vary for each respondent depending on the number of classes. The total filing fees of \$42,650,825.00 shown here are based on the minimum fee of one class for those items for which a fee is required.

IC #	Item	Estimated Annual Responses (a)	Filing fee (\$) (b)	Total Non-hour Cost Burden (\$) (a) x (b) = (c)
1	Trademark/Service Mark Allegation of Use (Statement of Use/Amendment to Allege Use) (Paper)	27	\$200	\$5,400.00
1	Trademark/Service Mark Allegation of Use (Statement of Use/Amendment to Allege Use) (TEAS)	109,086	\$100	\$10,908,600.00
2	Request for Extension of Time to File a Statement of Use (Paper)	59	\$225	\$13,275.00
2	Request for Extension of Time to File a Statement of Use (TEAS)	234,906	\$125	\$29,363,250.00
3	Petition to Revive Abandoned Application – Failure to Respond Timely to Office Action (Paper)	5	\$200	\$1,000.00
3	Petition to Revive Abandoned Application – Failure to Respond Timely to Office Action (TEAS)	19,545	\$100	\$1,954,500.00

4	Petition to Revive Abandoned Application – Failure to File Timely Statement of Use or Extension Request (Paper)	1	\$200	\$200.00
4	Petition to Revive Abandoned Application – Failure to File Timely Statement of Use or Extension Request (TEAS)	203	\$100	\$20,300.00
7	Request to Divide Application (Paper)	1	\$200	\$200.00
7	Request to Divide Application (TEAS Global)	3,057	\$100	\$305,700.00
10	Petition to the Director Under Trademark Rule 2.146 (Paper)	1	\$200	\$200.00
10	Petition to the Director Under Trademark Rule 2.146 (TEAS Global)	750	\$100	\$75,000.00
11	Petition to Revive with Request to Delete Section 1(b) Basis or to Delete ITU Goods/Services After NOA (Paper)	1	\$200	\$200.00
11	Petition to Revive with Request to Delete Section 1(b) Basis or to Delete ITU Goods/Services After NOA (TEAS Global)	30	\$100	\$3,000.00
	<b>Totals</b>	<b>374,891</b>	<b>---</b>	<b>\$42,650,825.00</b>

Therefore, the USPTO estimates that the total annual (non-hour) cost burden for this collection, in the form of postage costs and filing fees is \$42,650,873.51 per year.

#### IV. Request for Comments

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Comments are invited on:

- (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;
- (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information;

(c) ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) ways to minimize the burden of the collection of information on respondents, e.g., the use of automated collection techniques or other forms of information technology.

**Marcie Lovett,**

*Records and Information Governance Division Director, OCTO,  
United States Patent and Trademark Office.*

**BILLING CODE 3510-16-P**

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